IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 474 OF 1998

The Commissioner of Income-tax. ... Applicant.
V/s.
M/s.Duphar Interfram Ltd. ... Respondent.

A.S.Rao for the Applicant.

S.J.Mehta for the respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 29th March, 2005.

P.C. :

. Heard learned counsel for the applicant.

The tribunal has referred following questions for

the opinion of this Court:

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that in computing the disallowance in respect of expenditure which resulted in remuneration benefit or amenities to employee directors, the provisions of section 40(c) and not those of section 40A(5) of the I.T.Act, would be applicable?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that entire initial contribution by assessee to approved superannuation fund should be allowed as a deduction, when in view of Board notification No.110(F.No.44A/8/64/ITJ dt.81.10.1965) such contribution is to be allowed @ 1/5th of 80% of total contribution in five equal instalments starting from the year in which amount was actually contributed?"

2. The first question has already been answered

by the Division Bench of this Court in the case of

C.I.T. v. Hico Products Ltd., (1993) 201 ITR 567 (Bom) in favour of assessee and against the revenue.

3. The second question has already been answered by the Apex Court in the case of **C.I.T. v. Sirpur Papers Works.**, (1999) 237 ITR 41 (SC) in favour of assessee and against the revenue.

4. In this view of the matter, both the questions are answered in affirmative for the reasons stated in the above referred judgments.

5. Reference stands disposed of accordingly with no order as to costs.

*****